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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/418,943 10/15/99 SOWELL

T 202231

EXAMINER

TM02/0227

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LEYDIG VOIT & MAYER LTD  
TWO PRUDENTIAL PLAZA SUITE 4900  
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NGUYEN, N

ART UNIT

PAPER NUMBER

2164

DATE MAILED:

02/27/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/418,943

Applicant(s)

Sowell

Examiner

Nga B. Nguyen

Group Art Unit

2164

☒ Responsive to communication(s) filed on Oct 15, 1999

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-73 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-73 are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2164

*Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-44 and 53-55, drawn to a method for charging customers for use of software, classified in class 705, subclass 52.
  - II. Claims 45-50 and 56-58, drawn to a method for administering distribution of software modules to customers, classified in class 705, subclass 63.
  - III. Claims 51-52 and 59-73, drawn to a method of distributing software modules to customers and a license to use software modules, classified in class 705, subclass 59.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. See MPEP § 806.05(d). In the instant case, invention has separate utility such as:

Inventions I and II have separate utility such as: the invention I drawn to the method of charging the customer according to use of the distributed software modules as determined during the monitoring step, in contrast, the invention II drawn to the method for administering a set of software modules and notifying the customer via network messaging channels of events concerning user of the set of software modules. Therefore, the invention I and II are shown to be separately usable.

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Inventions I and III have separate utility such as: the invention I drawn to the method of charging the customer according to use of the distributed software modules as determined during the monitoring step, in contrast, the invention III drawn to the method of distributing software modules to customers and a license to use software modules. Therefore, the invention I and III are shown to be separately usable.

Inventions II and III have separate utility such as: the invention II drawn to the method for administering a set of software modules and notifying the customer via network messaging channels of events concerning user of the set of software modules, in contrast, the invention III drawn to the method of distributing software modules to customers and a license to use software modules. Therefore, the invention II and III are shown to be separately usable.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen, whose telephone number is (703)306-2901. The examiner can normally be reached on Monday-Thursday from 7:30 AM-5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,  
Vincent A. Millin, can be reached on (703)308-1065.

Nga B. Nguyen

*Nga Nguyen*

February 8, 2001